

**Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Advancing Broadband Availability Through Digital Literacy Training)	WC Docket No. 12-23
)	
Lifeline and Link Up)	WC Docket No. 03-109

**COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE DISTRICT OF
COLUMBIA ON THE UNITED STATES TELECOM ASSOCIATION
PETITION FOR WAIVER**

INTRODUCTION AND SUMMARY

Pursuant to the May 1, 2012 Public Notice¹ issued by the Federal Communications Commission (FCC) on the United States Telecom Association (USTelecom) Petition for Waiver (USTelecom Petition),² the Public Service Commission of the District of Columbia (DC PSC) respectfully files its comments. The DC PSC urges the FCC to grant this waiver request because the state agency responsible for verifying customer eligibility for Lifeline service (state certification agency) in the District of Columbia will be unable to meet the June 1, 2012 deadline for complying with portions of 47 C.F.R. § 54.410, specifically 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii).

¹ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Public Notice, rel. May 1, 2012.

² *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, United States Telecom Association Petition for Waiver (USTelecom Petition), filed April 25, 2012.

THE USTELECOM PETITION SEEKS A LIMITED WAIVER OF SECTIONS 54.407(d), 54.410(b)(2), AND 54.410(c)(2).

USTelecom seeks a waiver of certain sections of 47 C.F.R. § 54.407 and 47 C.F.R. § 54.410 in states where there is a state certification agency or where customers are enrolled in Lifeline through automatic or coordinated enrollment and where the state cannot change its enrollment procedures by June 1, 2012. USTelecom asserts that without a waiver of these rules, states will be unable to perform all of the duties necessary to provide eligible telecommunications carriers (ETC) with the necessary information to demonstrate that customers for whom ETCs seek reimbursement from the federal universal service fund are eligible for Lifeline service. If the ETCs cannot receive reimbursement for those customers, then they may lose Lifeline service. To prevent this result, USTelecom seeks a waiver of 47 C.F.R. § 54.407(d), 47 C.F.R. § 54.410(b)(2), and 47 C.F.R. § 54.410(c)(2) until the state certification agencies can amend their processes to comply with these provisions.³ The DC PSC comments address only 47 C.F.R. § 54.410(b)(2), and 47 C.F.R. § 54.410(c)(2), since there is no automatic or coordinated enrollment in the District of Columbia.

THE DISTRICT OF COLUMBIA CANNOT COMPLY WITH SECTIONS 54.410(b)(2)(ii) AND 54.410(c)(2)(ii) BY JUNE 1, 2012.

The *Lifeline Modernization Order*⁴ requires states to amend their Lifeline rules, processes, and materials to comply with new federal standards. While the DC PSC is working with its state certification agency, the District Department of the Environment's Energy Office (DDOE), and other stakeholders in the District of Columbia to make the necessary amendments,

³ USTelecom Petition at 2.

⁴ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking, rel. February 6, 2012.

compliance with several of these new rules by June 1, 2012 is impossible. Regarding the rules referenced in the USTelecom Petition, the DC PSC identifies 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii) as problematic in the District of Columbia. Pursuant to 47 C.F.R. § 54.410(b)(2) and 47 C.F.R. § 54.410(c)(2), state certification agencies must provide ETCs notice that a customer is eligible for Lifeline service (47 C.F.R. § 54.410(b)(2)(i) and 47 C.F.R. § 54.410(c)(2)(i)) and a copy of that customer's application (47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii)), before the ETC can seek reimbursement for that customer. DDOE currently complies with 47 C.F.R. § 54.410(b)(2)(i) and 47 C.F.R. § 54.410(c)(2)(i) by providing periodic customer lists to Verizon Washington, DC Inc. (Verizon DC), the only wireline ETC in the District of Columbia.⁵ However, DDOE does not currently provide copies of customer certification applications to Verizon DC. It will take some time for DDOE to develop processes to assemble, copy, and securely transmit thousands of customer applications and supporting documents to Verizon DC and for Verizon DC to develop processes to properly store these applications, which contain confidential customer information. Thus, compliance with 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii) by June 1, 2012 is infeasible.⁶

GOOD CAUSE EXISTS TO GRANT USTELECOM'S PETITION.

The FCC may waive its rules for good cause shown.⁷ Good cause includes the existence of particular facts that make strict compliance with the rule inconsistent with the public interest.⁸ The FCC may also take into account considerations of hardship, equity, or more effective

⁵ The DC PSC has no jurisdiction over wireless ETCs, so DDOE performs no certification activities for wireless ETCs.

⁶ DDOE believes that it may be able to comply with this requirement by April 1, 2013.

⁷ 47 C.F.R. § 1.3 (2011).

⁸ *Northeast Cellular Telephone Com. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

implementation of public policy on an individual basis.⁹

There are several reasons for which USTelecom's Petition should be granted. First, even though DDOE is attempting to comply with the new rules, it will be impossible to perform all of the necessary tasks to comply with 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii) by June 1, 2012.

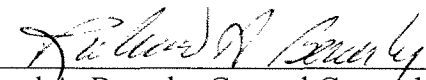
Additionally, waiving 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii) in the District of Columbia would serve the public interest. Under current practice, DDOE already provides customer lists to Verizon DC. Customer presence on that list is proof that the customer submitted the necessary application and supporting materials to DDOE, so Verizon DC would be reimbursed only for eligible customers. Compliance with 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii) would impose heavy administrative burdens on both DDOE and Verizon DC, while not providing any additional guarantee of customer eligibility that is not already provided in 47 C.F.R. § 54.410(b)(2)(i) and 47 C.F.R. § 54.410(c)(2)(i). Thus, the FCC should waive these two rules in the District of Columbia.

CONCLUSION

The DC PSC appreciates the opportunity to submit this response to the USTelecom Petition for Reconsideration and urges the Commission to grant the Petition.

Respectfully submitted,

**PUBLIC SERVICE COMMISSION
of the DISTRICT OF COLUMBIA**

By: 
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⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied* 409 U.S. 1027 (1972); *Northeast Cellular Telephone Com. v. FCC* at 1166.

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